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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/400,154
Filing Date: September 21, 1999
Appellant(s): TAKIGUCHI ET AL.

Hiroyuki Yasuda
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 5, 2008 appealing from the Office action mailed

14 December 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

EP 0 860 978 A2	Fukasaka	8-1998
US 6,373,507 B1	Camara et al.	4-2002
US 5,864,411	Norris	1-1999
US 6,542,182 B1	Driscoll, Jr. et al.	4-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 67, 68, 70, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Fukasaka et al. (EP 860 978 A2) in view of Camara et al. (US 6,373,507 B1).

The Examiner also respectfully submits Claims 67 and 75 are corresponding apparatus

and method claims, respectively – accordingly, these claims will be rejected together.

For **Claims 67 and 75**, Fukasaka et al. disclose, as shown in figures 1 – 4 and as stated in

columns 6 (lines 30 – 58), 7 (lines 1 – 16), 8 (lines 42 – 46), 10 (lines 10 – 20 and 52 – 58), and

11 (lines 1 – 5), an image input system, which includes an image input device (image sensing

apparatus 101) having a plurality of operation modes (see column 10, lines 10 – 19) and a

computer (201) having a plurality of software programs (application programs; also see column

10, lines 10 – 19) each corresponding to each of the plurality of operation modes of the image

input device ("adding a function for initiating an application" program), comprising:

a transmitting unit adapted to transmit information indicating an operation mode in said

image input device to said computer when said image input device and said computer are

connected with each other and a communication between said image input device and said

computer is established (see below for explanation);

a receiving unit (expansion board 23) arranged in said computer (201) and adapted to

receive the information indicating the operation mode set in said image input device (101); and

a control unit adapted to select a software program, which corresponds to the operation

mode set in said image input device, from a plurality of software programs and make start the

selected software program (see explanation below), wherein it is set in every software whether

the software is kept in an operating state or an operation of the software is terminated (The

Examiner believes this is an inherent feature. There are no other options than to keep software

operating or terminating an operation and every single piece of software is designed to either

keep operating or terminate. Therefore, this limitation encompasses all possible situations.).

Fukasaka et al. disclose, as stated in column 7 (lines 9 – 12), that an application program

is automatically initiated, within the computer (201 – 204), by pressing a shutter button (11) on

the image input device (101 – 104) without interfacing with the operator of the image input

system. As stated in column 7 (lines 12 – 16), the predetermined application program, such as a

TV conference application program or a TV phone application program, is executed in response

to the operation of the image sensing apparatus (101 – 104) and may be stored in the hard disk

(24) of the computer (201 – 204) or stored in a CD-ROM or other media (as stated in column 9,

line 55 – column 10, line 5). Also, as stated in column 10 (lines 10 – 19), in a case where

buttons and switches, such as a power switch, a shutter button which has different operation

levels (e.g. half-stroke and full-stroke), an automatic focusing button, a white balance button, and

a zoom button, are provided in the image sensing apparatus (101 – 104), it is possible to add a

function for initiating <u>an application program</u> by operating one of these buttons and switches or

operating these buttons and switches in different combinations. Since each button or switch can

initiate an application program, each button or switch, on the image input device (101 – 104), is

thought of by the Examiner as a separate operation mode, thereby the image input device has a

plurality of operation modes.

While Fukasaka et al. disclose that the image input device (101) and computer (201) are

connected and a communication between each other is established, wherein, in the computer, a

software program is selected and started in response to an operation mode selection, in the image

input device, Fukasaka et al. does not disclose wherein when said image input device and said

computer are disconnected in a state that said image input device and said computer are

connected with each other and the software program corresponding to the operation mode of said

image input device is operating.

On the other hand, Camara et al. also disclose a camera connected to computer. More

specifically, Camara et al. shows, in figure 1, a camera (28) connected to the computer (22) and

software ("image acquisition system") on the computer (22) corresponding to the camera (see

figure 6). Camara et al. state, "the image acquisition system is described as being integrated into

an operating system that supports a graphical user interface windowing environment" (see

column 4, lines 21 – 24). Camara et al. also state, "The 'Imaging Devices' window 110

distinguishes between devices that are currently available and those that are not available (e.g.,

offline, physically removed, etc.)" (see column 4, lines 57 – 61). Therefore, Camara et al. teach

wherein the operating system, including the image acquisition system, continues to operate even

though the camera may be physically removed (i.e., disconnected) from the computer.

Thus, as stated in column 1 (lines 31 – 34), at the time the invention was made, it would

have been obvious to one with ordinary skill in the art to keep the software program operating

when the image input device and computer are disconnected in a state that said image input

device and said computer are connected with each other, as taught by Camara et al., in the image

input system, disclosed by Fukasaka et al., for the advantage of providing image acquisition

software that could be integrated with existing applications and operating systems to provide a

convenient environment for the user.

As for **Claim 68**, Fukasaka et al. states, in column 6 (lines 46 – 49), that image signals are constantly transferred to the computer (201 – 204) from the image input device (101 – 104) where they are displayed on the display (23) until the shutter button (11) is depressed on the image input device (101 - 104) thereby initiating an application program to transfer a still image from the image input device (101 – 104) to the computer (201 – 204), also for display on the display (23). Therefore, Fukasaka et al. disclose wherein the operation modes of said image input device include at least an image sensing mode.

As for **Claim 70**, Fukasaka et al. states, in column 6 (lines 46 – 49), that image signals are constantly transferred to the computer (201 – 204) from the image input device (101 – 104) where they are displayed on the display (23) until the shutter button (11) is depressed on the image input device (101 - 104) thereby initiating an application program to transfer a still image from the image input device (101 – 104) to the computer (201 – 204), also for display on the display (23).

Therefore, Fukasaka et al. disclose wherein in the case that the operation mode of said image input device is the image sensing mode, said control unit selects an image sensing software and makes start the image sensing software, and the image sensing software displays a preview image and senses an image on said computer.

Claims 69 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukasaka et al. (EP 860 978 A2) in view of Camara et al. (US 6,373,507 B1) in further view of Norris (US 5,864,411).

As for **Claim 69**, Fukasaka et al. disclose, as stated in column 10 (lines 10 – 19), an image input device having a plurality of operation modes, wherein buttons and switches such as a power switch, a shutter button which has different operation levels (e.g. half-stroke and full-stroke), an automatic focusing button, a white balance button, and a zoom button correspond to the plurality of operation modes, and a computer having a plurality of software programs, wherein the computer selects and starts at least a software program corresponding to an operation mode in response to the operation of the buttons and switches.

While Fukasaka et al. (as modified by Camara et al.) disclose selecting a software program from a plurality of software programs in a computer in response to the selection of an operation mode from a plurality of operation modes in an image input device and more specifically, an image sensing mode in the image input device and image sensing software in the computer, Fukasaka et al. (as modified by Camera et al.) does not disclose an image playback mode in the image input device and image playback software in the computer.

On the other hand, Norris also discloses an image input system. More specifically, Norris discloses, as shown in figures 1 and 4A and as a stated in column 7 (lines 46 – 61), an image input device (12) and a computer system (18) wherein the image input device (12) has an image playback mode and the computer (18) has image browsing software (the album function 76).

Thus, as stated in column 1 (lines 26 – 52) of Norris, at the time the invention was made it would have been obvious to one with ordinary skill in the art to have included an image input device (12) with an image playback mode and a computer (18) with image browsing software (76), as taught by Norris, in the image input system, disclosed by Fukasaka et al. (as modified by

Camara et al.), for the advantage of providing a user of the system with tools to create an

electronic photograph album.

As for **Claim 72**, Fukasaka et al. disclose, as stated in column 10 (lines 10 – 19), an

image input device having a plurality of operation modes, wherein buttons and switches such as

a power switch, a shutter button which has different operation levels (e.g. half-stroke and full-

stroke), an automatic focusing button, a white balance button, and a zoom button correspond to

the plurality of operation modes, and a computer having a plurality of software programs,

wherein the computer selects and starts at least a software program corresponding to an operation

mode in response to the operation of the buttons and switches.

While Fukasaka et al. (as modified by Camara et al.) disclose selecting a software

program from a plurality of software programs in a computer in response to the selection of an

operation mode from a plurality of operation modes in an image input device and more

specifically, an image sensing mode in the image input device and image sensing software in the

computer, Fukasaka et al. (as modified by Camara et al.) does not disclose an image playback

mode in the image input device and image playback software in the computer.

On the other hand, Norris also discloses an image input system. More specifically,

Norris discloses, as shown in figures 1 and 4A and as a stated in column 7 (lines 46 – 61), an

image input device (12) and a computer system (18) wherein the image input device (12) has a

slideshow playback mode and the computer (18) has slideshow playback software (the slideshow

function 74) that automatically displays the loaded images on a screen (36).

Hence, as stated in column 1 (lines 26 – 52) of Norris, at the time the invention was made

it would have been obvious to one with ordinary skill in the art to have included an image input

device (12) with an slideshow playback mode and a computer (18) with slideshow playback

software (76), as taught by Norris, in the image input system, disclosed by Fukasaka et al. (as

modified by Camara et al.), for the advantage of allowing a user of the system to systematically

view all the loaded images so as to thoroughly select images for printing and/or permanent

storage.

Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukasaka et al.

(EP 860 978 A2) in view of Camara et al. (US 6,373,507 B1) in further view of Driscoll, Jr. et al.

(US 6,542,184 B1).

As for **Claim 71**, Fukasaka et al. disclose, as stated in column 10 (lines 10 – 19), an

image input device having a plurality of operation modes, wherein buttons and switches such as

a power switch, a shutter button which has different operation levels (e.g. half-stroke and full-

stroke), an automatic focusing button, a white balance button, and a zoom button correspond to

the plurality of operation modes, and a computer having a plurality of software programs,

wherein the computer selects and starts at least a software program corresponding to an operation

mode in response to the operation of the buttons and switches.

While Fukasaka et al. (as modified by Camara et al.) disclose selecting a software

program from a plurality of software programs in a computer in response to the selection of an

operation mode from a plurality of operation modes in an image input device and more

specifically, an image sensing mode in the image input device and image sensing software in the

computer, Fukasaka et al. (as modified by Camara et al.) does not disclose an image playback

mode in the image input device and image playback software in the computer.

On the other hand, Driscoll, Jr. et al. also disclose an image input system. More specifically, Driscoll, Jr. et al. disclose, as shown in figures 11C and 13A and as a stated in column 10 (lines 32 – 47), an image input device (1205) and a computer system (1200) wherein the image input device (1205) has a panoramic image sensing mode and the computer (1200) has panoramic image sensing generation software for synthesizing loaded images.

Thus, as stated in column 1 (lines 28 – 37) of Driscoll, Jr. et al., at the time the invention was made it would have been obvious to one with ordinary skill in the art to have included an image input device (1205) with an panoramic image sensing mode and a computer (1200) with panoramic image sensing software, as taught by Driscoll, Jr. et al., in the image input system, disclosed by Fukasaka et al. (as modified by Camara et al.), for the advantage of providing a user of the system with an increased field of view so as to allow the user to choose the viewing direction of the image.

(10) Response to Argument

Appellant primarily argues, "Camara does not disclose, teach or suggest, when an active imaging device, as originally indicated in the window shown in one of FIGS. 5-7, becomes inactive as a result of the imaging device being disconnected from the computer, how the indication of that imaging device in the window would be changed, that is how operation of a software corresponding to that imaging device would be handled."

The Examiner respectfully disagrees with Appellant's position. In the Final Rejection (relevant portions reproduced above), the Examiner indicated that Fukasaka discloses "a control unit adapted to select a software program, which corresponds to the operation mode set in said image input device, from the plurality of software programs and make start the selected software

program," as claimed. The Examiner further indicated that setting in software whether the

software is kept in an operating state or an operation of the software is terminated is an inherent

feature to software. In other words, the Examiner believes that there are no other options than to

keep software operating or terminating the software and that every single piece of software is

designed to either keep operating or terminate. Finally, the Examiner indicated that even though

Fukasaka et al. disclose that when the image input device and computer are connected and a

communication between each other is established, the computer selects and starts a software

program in response to an operation mode selection in the image input device, Fukasaka et al.

still does not disclose a situation when said image input device and said computer are

disconnected in a state that said image input device and said computer are connected with each

other and the software program corresponding to the operation mode of said image input device

is operating. In other words, Fukasaka et al. simply do not teach what happens in the software

when the image input device and the computer are disconnected and, accordingly, cannot teach

that the software continues to operate.

To remedy this feature, the Examiner introduced Camara et al. Camara et al. also

disclose a camera connected to a computer. More specifically, Camara et al. shows, in figure 1,

a camera (28) connected to the computer (22) and software ("image acquisition system") on the

computer (22) corresponding to the camera (see figure 6). The Examiner considers figure 6 to be

a representation of the software corresponding to the imaging device. Furthermore, Camara et

al. state, "the image acquisition system is described as being integrated into an operating system

that supports a graphical user interface windowing environment" (see column 4, lines 21 – 24).

Therefore, the "image acquisition system", as shown in the figures, is the software program or

application corresponding to the imaging device. Moreover, Camara et al. also state, "The 'Imaging Devices' window 110 distinguishes between devices that are currently available and those that are not available (e.g., offline, physically removed, etc.)" (see column 4, lines 57 – 61). In other words, the software program distinguishes between situations when the imaging device is physically attached or physically removed from the computer. Since, the software distinguishes in the "Imaging Devices" window /GUI (110), the software must continue to operate even though the imaging device is physically removed from the computer. Thus, Camara et al. clearly provide the missing teaching.

It appears that Appellant does not consider the "image acquisition system" shown in Camara et al. to be software corresponding to the imaging device. Appellant has not provided any support for this position. However, the Examiner respectfully notes that there is nothing in the claim language that prevents the "image acquisition system" of Camara et al. to be the software corresponding to that imaging device. Therefore, the Examiner respectfully disagrees with Appellant's consideration.

For the reasons given above, the Examiner respectfully asks the Board to at least maintain the rejection of Claims 67 and 75.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Justin P. Misleh/

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